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VIA ECF

June 23, 2020

Honorable Lewis J. Liman
United States District Court
Southern District of New York
500 Pearl St.
New York, NY 10007-1312

Re: In re Elysium Health-ChromaDex Litigation, No. 17 Civ. 7394 (LJL)

Dear Judge Liman,

We represent Plaintiff ChromaDex, Inc. (“ChromaDex”) in the above-referenced matter. We respectfully submit this letter jointly with Defendant Elysium Health, Inc. (“Elysium”), pursuant to Paragraph 3(B) of Your Honor’s COVID-19 Emergency Individual Practices and Paragraph 1(C) of Your Honor’s Individual Practices, to request an extension of the case management deadlines in this matter in light of COVID-19.

By Order dated March 23, 2020, ECF No. 148, the Court granted a previous joint extension request, ECF No. 146, setting the following operative deadlines:

- Completion of Fact Depositions – August 11, 2020
- Initial Expert Disclosures – August 25, 2020
- Rebuttal Expert Disclosures – September 25, 2020
- Completion of Expert Depositions – October 20, 2020
- Completion of All Discovery – October 20, 2020
- Submission of Joint Pretrial Order – December 23, 2020

Since the previous extension, the parties have worked diligently to complete discovery, including by serving document subpoenas on, and negotiating productions with, third parties; identifying party- and third-party witnesses for depositions; exchanging proposed Rule 30(b)(6) topics; and conferring about the scope of document productions and depositions. However, at the time of the previous extension, restrictions on movement related to COVID-19 were just taking effect with no clear timeline for how long the restrictions would last. As noted in our prior extension request, the parties, counsel, and many of the deposition witnesses in this action are located in New York City and the Los Angeles metropolitan area. On June 9, 2020, New York City entered Phase One of the State’s economic reopening plan, allowing the manufacturing and construction industries to reopen. This week, the City began Phase Two, which permits offices to open at limited capacity. Los Angeles is in “early Stage 2” of its



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“Resilience Roadmap,” which allows offices to reopen but on a limited basis and subject to specific guidelines. In addition to the specific state-by-state restrictions on reopening, social distancing guidelines are continuing and are of particular concern with respect to air travel, room capacity, and other human-to-human interaction.

Due to continued restrictions related to COVID-19 and the uncertainty as to when restrictions will be eased to an extent that would facilitate witness preparation and depositions (including those of third parties), it has been challenging for the parties to schedule specific deposition dates. Moreover, given the August 11, 2020 deadline for completion of fact depositions currently in place, the parties are concerned that by the time there is sufficient certainty to permit scheduling, there may be insufficient time to complete the necessary depositions.

In light of the foregoing, the parties respectfully request an extension of the fact deposition deadline and all subsequent deadlines as follows:

	Current Deadline	Proposed Deadline
Completion of Fact Depositions	August 11, 2020	December 11, 2020
Initial Expert Disclosures	August 25, 2020	January 17, 2021
Rebuttal Expert Disclosures	September 25, 2020	February 17, 2021
Completion of Expert Depositions	October 20, 2020	March 17, 2021
Completion of All Discovery	October 20, 2020	March 17, 2021
Submission of Joint Pretrial Order	December 23, 2020	May 18, 2021

If this request is granted, the parties have agreed that, should restrictions continue into the fall, they will meet and confer to discuss options for completing discovery and preparing for trial without further delay, including conducting depositions by video.

Prior to the above-referenced March 23 Order, the Court granted one extension of the Case Management Plan deadlines, *see* ECF No. 92, and denied a separate request for an extension made by Elysium on February 14, 2020, ECF No. 129.

The parties thank the Court for its consideration of this request.

Sincerely,

Joe H. Tuffaha



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CC: Via ECF to Counsel of Record

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GRANTED IN PART, DENIED IN PART.

The deadlines are extended as follows: fact discovery to October 11, 2020; initial expert disclosures to October 25, 2020; rebuttal expert disclosures to November 25, 2020; completion of expert depositions to December 20, 2020; and completion of all discovery to December 20, 2020.

The deadline to submit the joint pretrial order is extended to February 23, 2021.

The status conference on October 21, 2020 at 10:00 a.m. will proceed as scheduled.

There will be no further extensions. The parties do not explain why depositions cannot be completed remotely or how many depositions remain in the case. *See Furry Puppet Studio Inc. v. Fall Out Boy*, No. 19-cv-2345 (S.D.N.Y. Feb. 24, 2021), Dkt. No. 91. The parties have asked for several extensions of the discovery deadlines since they first submitted the case management plan in March 2019, which contemplated the completion of discovery by December 2019. *See* Dkt. Nos. 77, 92, 95, 130, 148.

SO ORDERED. 6/26/2020.

A handwritten signature in black ink, appearing to read "Lewis J. Liman", written over a horizontal line.

LEWIS J. LIMAN
United States District Judge